

Chairperson: Supervisor Lee Holloway
Clerk: Delores "Dee" Hervey, 278-4230
Analyst: Terrence Cooley, 278-4994

COMMITTEE OF THE WHOLE
Tuesday, April 8, 2008 - 9:00 A.M.
Milwaukee County Courthouse - Room 203-R

MINUTES

PRESENT: Supervisors Nyklewicz, Coggs-Jones, Borkowski, De Bruin, Quindel, Mayo, Schmitt, Johnson, Weishan, Cesarz, Broderick, *Clark, Devine, Dimitrijevic, Rice, West, Jursik and Holloway (Chair)

*Arrived after roll call was taken.

Newly Elected County Board Supervisors Lipscomb and Sanfelippo were also present in the audience.

EXCUSED: Supervisor White-1

SCHEDULED ITEM:

1. 06-283 From the Ethics Code Study Committee, submitting a report and ordinance revision with recommendations for existing and proposed provisions to the Milwaukee County Code of Ethics. **(Referred to the Committee of the Whole.) (Report from County Board Staff and Corporation Counsel)**

B005

APPEARANCES:

Mr. Charles Mulcahy, (Appointee of County Executive Walker)
Ms. Hannah Dugan (Appointee of Ethics Board Chair)
Mr. Rick Ceschin, County Board Research Analyst
Mr. William Domina, Corporation Counsel
Mr. Robert Andrews, Deputy Corporation Counsel
County Supervisor Joseph Rice (Chairman of the Milwaukee County Code of Ethics Study Committee)
Attorney David Carr, Chairman of the Ethics Board

B006

Supervisor Rice introduced the members of the Milwaukee County Code of Ethics Study Committee. He indicated that Dr. Joan Prince of UWM was unable to attend. A letter was also received from Professor Clausen that he was unable to attend the meeting; however, he is in favor of the Committee's recommendations. He acted as the Committee's advisor.

SCHEDULED ITEMS (CONTINUED):

Supervisor Rice made a PowerPoint presentation and indicated that the work was the collective effort of the entire committee. He said that he was honored to have chaired it and the members appointed to the Committee were outstanding and brought invaluable knowledge to the process.

The Committee charge was set forth in an adopted resolution (File 06-283) in 2006.

Supervisor Nyklewicz asked if any efforts were taken to review the State's Ethics Code? Mr. Rice said the committee looked at a variety of codes, but the Committee did not adopt the State Ethics Code.

Supervisor Rice addressed the issue of why there was a need for a change to the Milwaukee County Code of Ethics: to create an ordinance and mechanism around compliance for public trust.

Supervisor Rice reviewed data from the National Government Ethics Survey that indicates that ethics violations can effectively be reduced if Governments implement strong educational programs.

B007

Mr. Mulcahy indicated that he and Dr. Prince addressed recommendations on Governance Structure of the said report, in the area of education and training. The whole theme would be communicative. He stated an Ethics Board Budget is needed, which requires a great deal of oversight. He reviewed recommendations for Ethics Board staffing resources. He commended the County Executive and County Board for the \$200,000 allocated in the contingency fund.

Supervisor Nyklewicz stated that the County Board made an allocation in the contingency fund for ethics modification and staffing but did not embrace the positions outlined in the Ethics Code Study Committee's recommendation.

Mr. Ceschin addressed the Standards of Conduct and new Protocol with the District Attorney's Office. The protocol would be available to all municipalities in Milwaukee County.

Questions and comments ensued.

Supervisor West inquired about the proposed salary recommendations for the Ethics Board. Mr. Rice clarified that the numbers reflected in the PowerPoint presentation were the recommendations requested of and provided by the existing Executive Director, Susan Shields. The numbers include salaries and benefits.

SCHEDULED ITEMS (CONTINUED):

Mr. Cady distributed copies of the Adopted 2008 Budget, which reads as follows: "In 2008 the Appropriation for Contingencies is budgeted at \$6,655,758. Of this amount, \$200,000 is specifically reserved for implanting recommendations of the Code of Ethics Study Committee should those recommendations be approved by the County Board and required additional expenditures in 2008." This action would require 2/3 votes.

Discussion ensued on the tutorial, appointment process, financial disclosures (spousal), diversity of the recommended nominating organizations, insertion of language into the code that reflects diversity which would include gender and be reflective of Milwaukee County's diversity, term limits, defining conflict of interest, clarity on gifts, when investigations are confidential and public, "safe harbor" advice, political activity, educational component of the Ethics Code, mandatory training, and conflict of interest when Supervisors are appointed to various boards.

Supervisor Nyklewicz suggested that there should be a uniformed ethics code that applies across the state.

Discussion ensued at length on separating the Corporation Counsel's office from the Ethics Board. The issue of "safe harbor" was a big concern during the discussion.

Mr. Domina said he has been working with ethics for twenty years and the Corporation Counsel is often the portal to work with the Ethics Board. He continued by saying that the Corporation Counsel's Office should never be viewed as usurping the Ethics Board's role.

He believes that there needs to be a day-to-day interaction/communication with both Ethics Committee and Corporation Counsel's Office.

Supervisor Broderick inquired if adoption of the proposed Ethics Code changes would prohibit counsel from the Corporation Counsel's Office. Mr. Domina stated that it would.

During the discussion it was stated that, under the Code recommendations, the Corporation Counsel's Office could not provide "safe harbor." In other words, the Corporation Counsel would not be the traffic cop for the code.

Discussion continued at length.

SCHEDULED ITEMS (CONTINUED):

B008 Ms. Dugan addressed the Committee on the Complaint Process, which is substantially different from the current process. She felt that the intent was to make the process more current and user-friendly

The current code identifies an investigation phase. The recommended code defines it as a preliminary conference.

Questions and comments ensued at length.

B008 **ACTION BY: (Coggs-Jones) Refer to County Board Staff for a comparison**
1:00:22 **analysis of the proposed ethics code to what the state ethics code already has in place, and what the county currently has in place to what is being proposed. What will be the fiscal impact to the DA's office? That this matter be referred to the Judiciary Committee and all Supervisors be invited to the meeting. Also refer to Corporation Counsel, DA's office and the Ethics Board.**

In addition, the report should include the safe harbor, privacy issues, and positive image component.

B008 Mr. Carr, Chairman of the Ethics Board, reviewed an April 7, 2008
1:06:08 communication listing areas of concern the Ethics Board have regarding the proposed Ethics Code Changes by the Ethics Code Study Committee.

Questions and answers ensued.

Supervisor Weishan inquired if this matter would be a carry over for the new County Board to address.

Mr. Cooley explained that Adopted Resolution File No. 06-283 established a Milwaukee County Code of Ethics Study Committee, to submit a report. The report was referred to the Committee of Judiciary, Safety and General Services, which subsequently referred the report to County Board staff for review and report back to a meeting of the Committee of the Whole. Since the report comes out of an adopted resolution, the matter will not be reflected on the End of the Term Listing (2004-2008) of items to be placed on file.

Supervisor De Bruin asked that the report from Corporation Counsel address the legal questions raised during the discussion, including the issue of contained in the revised code that Corporation Counsel can no longer advise "safe harbor" at the beginning of the complaint process. What language would Corporation Counsel recommend if they were to be restored to provide "safe harbor."

SCHEDULED ITEMS (CONTINUED):

She also wanted language that would clarify the disbursement of funds for investigations. The recommended revisions do not provide a way to independently fund an ethics investigation. Currently the County Board and County Executive control the budget under which the Ethics Committee operates. This was considered a conflict of interest.

She asked Mr. Carr if the Ethics Board has any recommendations to address this problem? Attorney Carr said they would have to consider how to address this. Perhaps via consultation with Corporation Counsel, Department of Administrative Services and County Board Staff, the Ethics Board could come up with some ideas within the County funding sources to address the legal process, which would result in a more hands off process for the Ethics Board.

B009 Mr. Andrews addressed the Committee on the ban of political activity, role of the corporation counsel, and legal issues raised.

Questions and comments ensued on campaign prohibitions, verified and unverified complaints, presumption of innocence, first amendment challenges, and standards of conduct

Ms. Hervey restated the motion by Supervisor Coggs-Jones.

Chairman Holloway commended the Ethics Study Committee's work.

Supervisor West offered a friendly amendment that the Ethics Board's report be included in the motion for review by all.

Supervisor Jursik asked Mr. Carr if he obtained a legal opinion from Corporation Counsel regarding Disclosure By Spouse in the Annual Statement of Economic Interest filing? She did not want the Ethics Board's suggestion to be automatically accepted as being correct.

19:15 Supervisor Rice asked Supervisor Coggs-Jones if her motion could include a specific date s for a report to the Judiciary Committee.

Supervisor Coggs-Jones said that the June 2008 cycle.

The report from Corporation Counsel should include a review of the Ethics Board concerns and the language, for consideration, to put Corporation Counsel back in the process for early "safe harbor" which was the intent in the initial Ethics Code.

Supervisor Coggs-Jones accepted all the friendly amendments.

SCHEDULED ITEMS (CONTINUED):

B009

23:00

On the motion. Vote 16-0-3

AYES: Coggs-Jones, Borkowski, De Bruin, Quindel, Schmitt, Johnson, Weishan, Cesarz, Broderick, Clark, Devine, Dimitrijevic, Rice, West, Jursik and Holloway (Chair)

NOES: None

EXCUSED: Nyklewicz, Mayo and White-3

The Committee acknowledged the hard work that Supervisor Rice and the Ethics Study Committee conducted.

The Committee acknowledged the work of Mr. Bultman, County Board Research Analyst, regarding his review of the Milwaukee County Code of Ethics Study Committee Report.

STAFF PRESENT:

Rick Ceschin, County Board Research Analyst
Glenn Bultman, County Board Research Analyst
Terrence Cooley, County Board Chief of Staff
William Domina, Corporation Counsel
Robert Andrews, Deputy Corporation Counsel

This meeting was recorded on a tape. Committee files contain copies of communications, reports and resolutions, which may be reviewed upon request to the Chief Committee Clerk. The official copy of these minutes, along with the audio recording of this meeting, are available in the County Board Committee Services Division.

Length of meeting: 9:00 a.m. to 12:30 p.m.

Adjourned,

Delores "Dee" Hervey

Chief Committee Clerk

<p><i>ADA accommodation requests should be filed with the Milwaukee County Office for Persons with Disabilities, 278-3932 (voice) or 278-3937 (TTD), upon receipt of this notice.</i></p>
